evidence were it not for the additional fact that the work was constructed in accordance with plans furnished by the city engineer which fact presumably lent a different aspect to the case.

NEGLIGENCE — CONTRIBUTORY NEGLIGENCE — VOLUNTARY ACTS. — The employes of defendant telephone company negligently removed a service cock from a city water main, permitting the water to be forced into the open window of apartments of which plaintiff was housekeeper. In attempting to close the window to prevent injury to the room and its contents, she was knocked down and had her clothing soaked with water, causing her to become ill. *Held,* that since plaintiff's act was voluntary, she assumed the consequences of getting wet and could not recover. *Taylor* v. *Home Telephone Co.* (1910), — Mich. —, 128 N. W. 728.

The principle underlying this decision, and expressed in the maxim, "volenti non fit injuria," has been stated as follows: "One who, knowing and apprehending a danger, voluntarily assumes the risk of it, has no just cause of complaint against another who is primarily responsible for the existence of the danger." *O'Maley* v. *Gaslight Co.,* 158 Mass. 135, 32 N. E. 1119, 47 L. R. A. 161. Courts have frequently refused to so apply this principle as to deny the right to recover damages to one who has at actual risk of injury sought to save property, where his effort has been such as a reasonably prudent man would have made under similar circumstances. *Thompson* v. *Seaboard Air Line R. Co.* (1908), 81 S. C. 333, 62 S. E. 396, 20 L. R. A. (N. S.) 426; *Henry* v. *Cleveland etc. R. Co.,* 67 Fed. 426; *Berg* v. *Great N. R. Co.,* 70 Minn. 272, 73 N. W. 648; *Pullman Palace Car Co.* v. *Laack,* 143 Ill. 242, 32 N. E. 285, 18 L. R. A. 215; but other courts hold that a person who voluntarily places himself in a position of danger simply for the protection of property, is negligent so as to preclude recovery for an injury received. *Cook* v. *Johnson,* 58 Mich. 437, 25 N. W. 388, 55 Am. Rep. 703; *Morris* v. *Lake Shore etc. R. Co.,* 148 N Y. 182, 42 N. E. 579; *Condiff* v. *Kansas City etc. R. Co.,* 45 Kan. 256, 25 Pac. 562; *Seale* v. *Gulf etc. R. Co.,* 65 Tex. 274, 57 Am. Rep. 602. In view, however, of the duty which the law casts upon the owner of property to minimize the loss caused by another's willful or negligent act, it is difficult to see why the attempt of a third person to minimize the loss of the negligent party, as in the principal case, should be allowed to be used by the latter as a ground of defense in an action for damages for an injury resulting from such attempt.

PRINCIPAL AND AGENT—INTOXICATING LIQUORS—ILLEGAL SALES TO MINOR. —The agent of defendant, a licensed saloon keeper, delivered liquor to a minor, under the belief that the minor was buying as agent for another, whose identity was unknown and was not disclosed. *Held,* that this constituted a sale to the minor, under a statute forbidding a sale to a minor, even though the one for whom the liquor was bought was an adult. *State* v. *Nichols* (1910), — W. Va. —, 69 S. E. 304.

Cases upon a similar state of facts are constantly coming before the courts. There is no question on principle and on authority that if the principal is disclosed there is no sale to the minor agent. *Monaghan* v. *State,* 66